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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

ROBERT LATRELLE GLASS,

Plaintiff,

v.

ANTHONY LAMARQUE, et al.

Defendants.

C 04-4007 CW (PR)

**STIPULATION AND ORDER
OF DISMISSAL**

Following a mediation with The Honorable Magistrate Judge Nandor Vadas, the parties agree as follows:

- A. Plaintiff Robert Latrelle Glass (Plaintiff) filed his Complaint in this action on September 22, 2004, and the Court ordered service on June 2, 2005. (Ct. Docket Nos. 1, 5.)
- B. In his Complaint, Plaintiff alleges that while incarcerated at Salinas Valley State Prison he was denied access to the outdoors and exercise based on his classification as a C-status inmate.

- 1 C. In its Order of Service, the Court screened Plaintiff's Complaint and found that
 2 liberally construed, Plaintiff's allegations that (1) he had been denied access to the
 3 outdoors and exercise had stated a cognizable Eighth Amendment claim and (2) that he
 4 had been denied exercise solely because of his C-status and for no legitimate
 5 penological purpose, had stated a cognizable equal protection claim. (Ct. Docket No.
 6 5.) The Court ordered service of Plaintiff's Complaint on Defendants Lamarque,
 7 Mantel, Manuel, Treadwell, Caden, Monteiro, and Batchelor (Defendants).
 8 Defendants filed a motion for summary judgment on June 9, 2006. (Ct. Docket Nos.
 9 35, 36, 37, 38, 39, 47, 48.) The Court denied Defendants' motion for summary
 10 judgement as to Plaintiff's Eighth Amendment claim and granted the motion for
 11 summary judgment as to the Equal Protection Claim. (Ct. Docket No. 49.) The Court
 12 referred this matter to The Honorable Magistrate Judge Nandor Vadas for mediation as
 13 to the remaining Eighth Amendment claim. (*Id.*)
- 14 D. The parties mediated this matter before Magistrate Judge Vadas on May 10, 2007 at
 15 California State Prison - Sacramento. A full and final settlement of this action was
 16 reached by the parties. The parties wish to fully resolve all matters which were or
 17 could have been asserted in this action. Therefore, they now enter into this stipulation
 18 in order to fully settle and discharge all claims which are, or might have been, the
 19 subject matter of the action, upon the terms and conditions set forth below.

20 IN ACCORDANCE WITH MATTERS DISCUSSED BY MAGISTRATE JUDGE
 21 VADAS AND THE PARTIES AT THE MAY 10, 2007 MEDIATION, THE PARTIES
 22 STIPULATE AS FOLLOWS: 1. Plaintiff agrees to the voluntary dismissal with prejudice
 23 of the above-captioned action under Rule 41(a) of the
 24 Federal Rules of Civil Procedure.

25 2. In consideration for a release of all claims and a stipulation of dismissal in this action,
 26 the California Department of Corrections and Rehabilitation (CDCR), on behalf of
 27 Defendants, agrees to the following: (1) to pay Plaintiff Three Thousand Dollars and
 28 no cents (\$3,000); and (2) to bring Plaintiff before a classification committee to

- 1 reclassify Plaintiff's status to A1/A status.
- 2 3. At the time that Plaintiff signs this stipulation, he shall also sign and return to defense
- 3 counsel a Payee Data Record form. Upon receipt of the executed Stipulation and
- 4 Order of Dismissal and Payee Data Record Form, CDCR will have up to 90 days to:
- 5 (1) issue the settlement payment check; and (2) bring Plaintiff before a classification
- 6 committee to reclassify Plaintiff's status to A1/A status.
- 7 4. Plaintiff expressly waives and assumes the risk of any and all claims for damages
- 8 which exist as of this date, but which he does not know or suspect to exist, whether
- 9 through ignorance, oversight, error, negligence, or otherwise, and which, if known,
- 10 would materially affect his decision to enter into this settlement agreement. Plaintiff
- 11 has read the contents of Section 1542 of the Civil Code of the State of California, and
- 12 he expressly waives the benefits of this section. Section 1542 reads as follows: "A
- 13 general release does not extend to claims which the creditor does not know or suspect
- 14 to exist in his or her favor at the time of executing the release, which if known by him
- 15 or her must have materially affected his or her settlement with the debtor."
- 16 5. In consideration of the obligations set forth in Paragraph 2, Plaintiff completely
- 17 releases and forever discharges Defendants, all served and unserved defendants,
- 18 CDCR, Salinas Valley State Prison, and any unnamed defendants, from any and all
- 19 claims that are the subject of the action as alleged in Plaintiff's Complaint that are
- 20 based on, related to, or derived from the alleged acts or omissions of Defendants,
- 21 CDCR, or Salinas Valley State Prison as alleged in Plaintiff's Complaint filed in this
- 22 action.
- 23 6. Under California Penal Code § 2085.5 all outstanding restitution orders and fines must
- 24 first be paid directly from this settlement. The restitution fines and fees, if any, shall
- 25 be deducted from the settlement proceeds and the remainder of the settlement amount
- 26 will be issued by check payable to Plaintiff.
- 27 7. This agreement does not constitute an admission of liability or any wrongdoing on
- 28 behalf of any party.

1 8. Each party shall bear his own attorneys' fees and costs.

2 9. This stipulation shall constitute the entire agreement between the parties arising from
3 the allegations alleged in this action, and it is expressly understood and agreed that this
4 stipulation has been freely and voluntarily entered into by all parties. It may not be
5 altered, amended, modified, or otherwise changed in any respect except by writing
6 duly executed by the parties to this agreement.

7 IT IS SO STIPULATED.

8
9 Dated: May ____, 2007

ROBERT LATRELLE GLASS, PLAINTIFF

10
11 Dated: May ____, 2007

MICHAEL DAVIS, SENIOR COUNSEL
Office of Legal Affairs
California Department of Corrections and
Rehabilitation

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13
14
15 Dated: May ____, 2007

TRACE O. MAIORINO
Deputy Attorney General
Attorneys for Defendants Lamarque, Mantel, Manuel, Treadwell,
Caden, Monteiro, and Batchelor

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18
19 ORDER

20 IT IS HEREBY ORDERED that this case against Defendants shall be dismissed with
21 prejudice.

22 IT IS SO ORDERED.

23
24 Dated: 6/8/07



THE HONORABLE CLAUDIA WILKEN
United States District Court Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

GLASS,

Plaintiff,

v.

LAMARQUE et al,

Defendant.

Case Number: CV04-04007 CW

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on June 8, 2007, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Robert Latrelle Glass J-36237
California State Prison - Sacramento
Prison Road
P.O. Box 29-0066
Represa, CA 95671

Trace O. Maiorino
California State Attorney General's Office
Correctional Law Section
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004

Dated: June 8, 2007

Richard W. Wieking, Clerk
By: Sheilah Cahill, Deputy Clerk